

**TOWN OF ARLINGTON
MASSACHUSETTS**

**REPORT OF THE
BOARD OF SELECTMEN**



**TO THE
ANNUAL TOWN MEETING
MONDAY, APRIL 24, 2006**

8:00 P.M.



KEVIN F. GREELEY, CHAIRMAN
ANNIE LACOURT, VICE-CHAIRMAN
JOHN W. HURD
DIANE M. MAHON
CLARISSA ROWE

INTRODUCTION

The Board of Selectmen is pleased to present its report to Town Meeting of its main motions under the following articles. These votes are the result of hearings conducted by the Board at which proponents and opponents of the various articles were heard. The Board knows that the Town Meeting will give fair and serious consideration to all of the important issues raised by the various articles. The Board wishes the Town Meeting well in its deliberations and stands ready to respond to any questions or comments concerning these articles.

The Board wishes to add that several of the articles in the warrant have received a recommended vote of no action from the Board because the Board believes that the purposes of the article can be accomplished without Town Meeting action including the amendment of the Town Bylaws. The Board appreciates the supporters of these articles bringing these important matters forward.

All votes are unanimous unless otherwise indicated.

ARTICLE 3 APPOINTMENT OF MEASURERS OF WOOD AND BARK

VOTED: **That John A. FitzMaurice, 17 Lakeview, be and hereby is appointed Measurer of Wood and Bark until the next Annual Town Meeting.**

ARTICLE 4 ELECTION OF ASSISTANT TOWN MODERATOR

VOTED: **The Moderator will conduct an election for the position of Assistant Moderator, which was created by a Bylaw amendment in 2003. The text of the Bylaw is as follows:**

“Section 1. Assistant Moderator

- A. Election. Each year at the Annual Town Meeting, the Town Meeting Members shall elect one of their number to serve as Assistant Moderator for a term of one year, or until his or her successor is elected and qualified.**
- B. Duties. Whenever the Moderator is unavailable, the Assistant Moderator shall preside at Town Meeting. In addition, the Assistant Moderator shall assist the Moderator in the performance of his or her other duties, as the Moderator may direct.”**

COMMENT: This Bylaw was passed by the Town Meeting in 2003 at the request of the Town Moderator. The Moderator will conduct an election to fill this position under this Article.

ARTICLE 7

BYLAW AMENDMENT/CONTROL OF STORMWATER QUALITY AND QUANTITY

VOTED: That the Bylaws be and hereby are amended as follows:

That a new Article 13 “Stormwater Management” be added to Title V
Regulations on the Use of Private Property to provide as follows:

Article 13 Stormwater Management Section 1. Purpose

The development of this bylaw is in support of the National Pollutant Discharge Elimination System (NPDES) Phase II permit program, which will result in the protection of water resources. The intent is to reduce the amount of stormwater runoff and to improve the quality of the stormdrain runoff that does occur. The purpose of this bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing a standard of practice which will ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained. Such efforts will control the adverse effects of post-development storm water runoff and non-point source pollution associated with new development and redevelopment and reduce flooding.

To accomplish this end, all land development activities shall maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics. Application of recognized and accepted Best Management Practices for storm water control are encouraged, as well as practices of “low impact development” such as reduction of impervious cover and preservation of green space and natural areas to the maximum extent practicable.

Small but important improvements in reducing stormwater runoff problems can be achieved by individual homeowners or small project designers. These include, but are not limited to, these examples:

1. Minimizing land clearing;
2. Protecting and maintaining vegetative buffers;
3. Pervious paving systems for driveways and parking areas (such as Ecopavers or plastic grids that hold soil in the voids and can be planted as lawn, but withstand vehicular traffic);
4. Rain barrels attached to downspouts for use in landscape watering;
5. Trench drains and drywells;
6. Raingardens planted with native plants that are “thirsty” – such as blueberries, red-twig dogwood, or pussywillow.

Section 2. Terms and Definitions

Best Management Practices – the most effective and feasible method(s) that accomplish the goal; it may be a structure or technology used to manage or treat water (such as leaching catch basin installation or detention pond), or a behavioral practice (such as use of integrated pest management or low phosphorus fertilizers) which will prevent or reduce the discharge of pollutants.

Building footprint – the outline of the total area covered by a building's perimeter at the ground level.

Catchbasin – a conventional structure for the capture of stormwater utilized in streets and parking areas; it provides for minimal removal of suspended solids, and some forms can separate oil and grease from stormwater.

Gross floor area. – gross square footage as defined in the Arlington Zoning Bylaw,
Art. 2 Gross Floor Area:

The sum of the gross horizontal areas of all the floors of a principal building and its accessory building or buildings on the same lot, including basements, as measured from the exterior faces of the exterior walls, or centerlines of walls separating two (2) buildings, including:

- a. elevator shafts and stairwells on each floor,
- b. that part of attic space with headroom, measured from subfloor to the bottom of the roof joists, of seven feet three inches or more, except as excluded in (4), below;
- c. interior mezzanines, and penthouses;
- d. basements except as excluded in (2), below; and cellars in residential use;
- e. all weather habitable porches and balconies; and
- f. parking garages except as excluded in (1), below;
but excluding:
 1. areas used for accessory parking garages, or off-street loading purposes;
 2. that part of basements devoted exclusively to mechanical uses accessory to the operation of the building;
 3. open or lattice enclosed exterior fire escapes;
 4. attic space and other areas for elevator machinery or mechanical equipment accessory to the operation of the building; and
 5. porches and balconies.

Runoff – rainfall, snowmelt, or irrigation water flowing over the ground surface

Stormwater – stormwater runoff, snow melt runoff, surface water runoff and drainage; the flow of water which results from precipitation and which occurs following rainfall or snowmelt

Section 3. Applicability

This bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, applications resulting in dividing of property, grading application, any activity that will result in an increased amount of storm water runoff or pollutants flowing from the parcel of land, or any activity that will alter the drainage characteristics of a parcel of land.

A. This bylaw is applicable when the following development /redevelopment occurs:

- 1. All new development resulting in a structure where gross floor area exceeds 3000 sq. ft.**
- 2. Additions to existing structures that increase roof area above 1500 sq. ft.**
- 3. Increase in impervious areas – such as, but not limited to, road, parking lot, pool, play area such as basketball or tennis court, accessory structures which are subordinate and detached from the principal building on a lot - such as garages or sheds larger than 200 sq. ft.**
- 4. Additions requiring special permit (larger than 750 sq. ft.)**

B. Where new construction results in a structure with total footprint square footage in excess of 1400 sq. ft., or where roof area in excess of 1200 sq. ft. has drainage into an impervious area such as a driveway, total amount of post-construction discharge must be reduced by 50%.

C. No applicant may introduce an increase in surface water runoff. In areas subject to flooding as may be indicated on the Town's Wetland and Flood Plain Map and on the FEMA Flood Insurance Rate Map (as periodically updated and amended), the Engineering Division may require the developer to reduce the surface drainage and runoff up to 50% of the pre-application level.

D. Exemptions - Provisions of this bylaw will not be applicable in the following circumstances, notwithstanding any other provisions of this bylaw:

- 1. Where new construction or redevelopment results in a structure with gross square footage of less than 3000 sq. ft.,**
- 2. Where there is normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulation 310 CMR 10.04 and MGL 40A Section 3;**
- 3. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;**
- 4. Maintenance of existing patios, walkways and driveways, and repair or replacement of an existing roof of a single- or multi-family dwelling which**

- already exists at the time this bylaw is made effective; and construction of patios, decks, and covered porches;
5. Construction of any fence that will not alter existing terrain or drainage patterns;
 6. Where there is construction of utilities, other than drainage, which will not alter terrain, ground cover, or drainage patterns;
 7. Where there is emergency repair to any utilities, stormwater management facility or practice that would otherwise pose a threat to public health or safety.

Section 4. Procedure

A. Application: Prior to the issuance of a building permit, a grading and drainage plan consistent with specifications to be developed by the Arlington Dept. of Public Works and its Engineering Division shall be submitted by the Inspections Department to the Engineering Division. A fee of \$25.00 per hour shall be established, and from time to time adjusted by the department, to cover the costs of review of the drainage plan. This fee shall be paid by the applicant.

B. Review: The Engineering Division will review the application and within 14 days make such comments or recommendations as deemed appropriate; the plan may be approved, approved subject to conditions or approved with modifications; or the plan may be rejected.

C. The decision of the Engineering Division in regard to the Stormwater Plan shall be final. Further relief shall be to a court of competent jurisdiction.

D. Prior to issuance of a certificate of occupancy, the town engineer or his representative shall determine if there has been compliance with the grading and drainage plan; if found to be not in compliance, the applicant will be notified of remaining work to be done; if found to be in compliance, a certificate of occupancy shall be issued.

Section 5. Responsibility for Administration

A. The Town of Arlington Engineering Division shall establish administrative procedures for the review and approval of storm water management plans, and for long-term follow up which will include provisions to ensure there is an adequate funding mechanism for the proper review, inspection and maintenance of storm water facilities implemented as part of this bylaw.

B. Rules and Regulations.

The Engineering Division will utilize the policy, criteria, and information, including specifications and standards, of the latest edition of the Massachusetts Dept. of Environmental Protection's revised Surface Water Discharge Permit

Regulations at 314 CMR 3.06(11)(b)5 Storm Water Management Policy for execution of the provisions of this bylaw. This policy includes a list of acceptable storm water treatment practices, including the specific design criteria for each storm water practice. The policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience.

The Engineering Division shall administer this bylaw and shall promulgate rules and regulations and propose fees to effectuate the purposes of this bylaw, subject to the approval of the Director of Public Works and Town Manager. Failure to promulgate rules and regulations will not have the effect of suspending or invalidating this bylaw.

COMMENT: The intent of this article is to address the issue of stormwater runoff at new development and redevelopment sites. The program will be administered by the Engineering Division of the DPW. Regulations will be developed if this vote is adopted by Town Meeting. The proposed change is an effort to remain consistent with new Federal and State regulations. (National Pollutant Discharge Elimination System (NPDES) Phase II regulations and Mass DEP Stormwater Management Policy and Guidance Standards). The regulations recognize stormwater runoff as a significant source of contamination for our aquatic and marine systems, and municipalities are now required to develop plans, which, in the long term, will diminish runoff volume and lessen contaminants, recharge groundwater storage, and improve the water quality of recipient water bodies.

ARTICLE 8

BYLAW AMENDMENT/CURB SNOW REMOVAL

VOTED: That no action be taken on Article 8 of the Warrant.

COMMENT: The Board supports the efforts of the Commission on Disabilities to take all reasonable measures to increase access for physically handicapped individuals. The Director of Public Works has taken note of the concern that curb cuts be cleared of snow to facilitate travel for handicapped individuals. However, it would be impossible to clear every one in Town especially given the fact that the Town does not plow many of its sidewalks due to limited resources. Under existing Town Bylaws public and residential property owners are required to clear these curbs if they are within their property lines. The Director will make an effort, as time and resources permit, to clear snow from curb cuts on main thoroughfares. This article along with subsequent ones from the Commission on Disabilities propose the attainment of laudable goals. The Board, however, believes with all due respect to the Commission, that these goals can be advanced without the necessity of amendments to the Bylaws.

**ARTICLE 9 BYLAW AMENDMENT/SNOW REMOVAL ON THE DONALD
MARQUIS MINUTEMAN TRAIL**

VOTED: That no action be taken under Article 9 of the Warrant.

(4-1)

Mrs. Mahon voted in the negative

COMMENT: The Board recommends a no action vote for several reasons including the fact that when the Trail was built abutters were promised that the Trail would not be plowed in the winter time so as to afford these abutters some measure of privacy during a portion of the year. Again, due to limited resources, the Director of Public Works opposes an affirmative vote since his department needs to concentrate on plowing the main streets in Town and clearing handicapped ramps to extent that it can. He also observes that the Trail was constructed without drainage, which will result in a constant icing problem notwithstanding the removal of snow. A no action vote is recommended.

ARTICLE 10 BYLAW AMENDMENT/UNIFORM CONSTRUCTION ACCESS

VOTED: Given that most people including seniors and adults and children with disabilities prefer to remain or return to their own homes and communities rather than having to live away from family and friends in a nursing home;

Given that many people are at a risk of being institutionalized at some point in their lives and aging in place in one's own home is preferential to institutionalization;

Given that Universal Design is a design for the life span and provides usable and suitable products and arrangements for all people regardless of age, size or abilities;

Given that the cost of providing Universal Design is minimal in the initial design and construction of homes, and its features can add value to the home;

Given that Universal Design can realize long term cost savings in view of reduced health care costs as well as reduced hazards in the home;

Given that baby boomers are creating a growing need for Universal Design to age in their own homes; and

Given that as a recipient of federal funds Arlington is obligated to further home accessibility;

Therefore the Town of Arlington embraces, supports and encourages the use of Universal Design in construction, retrofitting and renovation to provide for the continuation of inclusive community living for all its residents.

COMMENT: The Board strongly supports this resolution from the Commission on Disabilities on inclusive community living.

ARTICLE 11 BYLAW AMENDMENT/SMOOTHER SIDEWALKS

VOTED: That no action be taken under Article 11 of the Warrant.

COMMENT: The Board agrees with the Commission on Disabilities that the repair of brick sidewalks with a smoother construction method is appropriate. The Board will work with the Commission and the Director of Public Works to address this issue.

ARTICLE 12 BYLAW AMENDMENT/HEALTHCARE RESERVE FUND

VOTED: That no action be taken under Article 12 of the Warrant.

COMMENT: The Board sees insufficient reason to amend the Bylaws so as to require such a report as requested by the proponents. The information is, however, provided in the Town Manager's Financial Plan available to all Town Meeting Members and is posted on the Town website. Town Counsel has advised that the maintenance of the Healthcare Trust Fund is solely within the discretion of the Board of Selectmen under Chapter 32B of the General Laws. In addition, recent amendments to Chapter 32B require that certain minimum amounts be kept in this trust fund and an annual audit is now required.

ARTICLE 13 BYLAW AMENDMENT/RECYCLING

VOTED: That no action be taken under Article 13 of the Warrant.

COMMENT: The Board supports the intent of this 10 registered voters article. However, the Board believes that its goals can be achieved without a bylaw amendment. The Town Manager and Public Works Director have conferred and the Manager has agreed, through the Recycling Revolving Fund, to hire on a part-time or contract basis an individual who will pursue ways to encourage compliance with the existing recycling bylaw and educate consumers on better ways to enhance the Town's recycling efforts. The proponents support this approach.

ARTICLE 14 BYLAW AMENDMENT/NOTICE OF HEARINGS AND MEETINGS

VOTED: That no action be taken under Article 14 of the Warrant.

COMMENT: The Board supports some of the proponents' ideas under this 10 registered voters article. The Board has asked the Town Manager to take steps to encourage all Town boards and commissions to post notice of their meetings on the Town website. There are over 100 boards, commissions and committees, however, and it is unrealistic to expect all of these committees with volunteer members to adhere in all circumstances to a bylaw as the proponents suggest. Membership of these committees frequently changes and training for each member to post to a website is an unrealistic proposal. The most troubling aspect of the article is the requirement that each board and committee post an agenda on the website at least for hearings before such committees. The proposed bylaw would require that no other business can be transacted other than what appears on the agenda. Needless to say, various matters come before the Town's committees which will not be known at the time an agenda, if any, is prepared. Town Counsel advises that if a matter does not appear on the agenda and is brought up and dealt with by the respective committees, then such vote might be the subject of judicial scrutiny and invalidation if this bylaw were to pass. The Board believes that such a requirement will cause inevitable confusion and difficulty. To be clear, the Board has strongly encouraged the Manager and independent boards to post notice of their meetings and agendas, if they have any on the website. However, the proposed bylaw would be unworkable. A no action vote is urged.

ARTICLE 15 BYLAW AMENDMENT/BOARD OF ASSESSORS' REPORT

VOTED: That the Board of Selectmen will report to Town Meeting under Article 15.

ARTICLE 16 BYLAW AMENDMENT/PERSONNEL BYLAW

VOTED: To strike Title I, Article 6, Section 13 Sick Leave, Subsection C, Accumulation which provides as follows

C. Accumulation

ART. 44 ATM 6/20/84

Sick leave will accumulate for each year of employment. When an employee leaves the employment of the Town, the employee, or in the case of death the employee's estate, shall be paid 25% of the employee's rate of pay for any unused and accumulated sick leave. No sick leave credit for prior employment will be allowed employees rehired or reinstated after a termination of service other than approved leave of absence.

And replace it with:

C. Accumulation

There shall be payment of accumulated sick leave upon the employee's death, retirement, or his leaving the employment of the Town. When a person leaves the employment of the Town, this employee, or in the case of death the employee's estate, shall be paid twenty-five percent (25%) of the employee's rate of pay for any

and all unused and accumulated sick leave. Any employee hired after July 1, 1997, will have sick leave buy back limited to 150 days. No sick leave credit for prior employment will be allowed employees rehired or reinstated after a termination of service other than approved leave of absence.

COMMENT: Several years ago five of six Town unions agreed to cap sick leave buybacks at 150 days for employees hired after July 1, 1997 and the language appears in their respective contracts (Patrolmen are the exception). This proposed bylaw change would bring nonunion personnel in line with their union counterparts. Employees in good standing earn fifteen sick days per year.

ARTICLE 17

BYLAW AMENDMENT/ANIMAL CONTROL

VOTED: That Section 2 of Article 2 Canine Control of Title VIII Public Safety be and hereby is amended by adding the following at the end thereof:

The Park and Recreation Commission shall provide for a hearing process to consider community input regarding the creation, placement and use of dog parks, dog runs or dog exercise areas. The Commission shall adopt rules and regulations concerning these hearings subject to the approval of the Town Manager.

COMMENT: The Board agrees with the proponents of this article that amendment of this bylaw would provide a public forum to hear the concerns of opponents and proponents of the establishment of these areas in the hopes of forming a neighborhood consensus concerning their use of the above-referenced areas.

ARTICLE 18

AMENDMENT OF VOTE/ARTICLE 4 OF MAY 2005 SPECIAL TOWN MEETING

VOTED: That no action be taken under Article 18 of the Warrant.

COMMENT: This 10 registered voters article proposes amending the above-referenced vote, which was a Home-Rule Petition to establish a special account for proceeds of the sale of the Symmes property and tax revenues generated after such sale to pay down the Town's debt in acquiring and maintaining the property prior to the sale. The Governor signed this legislation in March of the current year. The vote of Town Meeting was specific that building permit fees would not be placed in this account but would be deposited in available funds to potentially offset additional staff for the Building Department made necessary by the project. The projected building permit fees have been taken into account in establishing the 2007 budget and as part of the Town's Long-Range Financial Plans. For this reason the Board opposes any affirmative vote which would seek to amend this legislation. In addition, the Board fears that such a request to the Legislature coming fast on the heels of the recent enactment runs the risk of wearing out the Town's welcome. A no action vote is urged.

ARTICLE 19

MUTUAL AID/PUBLIC HEALTH

VOTED: That the Town hereby authorizes the Town Manager to sign the following Mutual Aid Agreement, which provides as follows:

Mutual Aid Agreement among Public Health Agencies in Emergency Preparedness Region 4B &4C

This Mutual Aid Agreement (“Agreement”) is entered into by and between the public health agencies of various cities and towns.

Section 1: Purpose

The purpose of this Agreement is to provide for mutual aid and assistance between the municipalities entering into the Agreement when the resources normally available to a municipality are not sufficient to cope with a situation, which requires public health action. The health and well being of a community will best be protected through the concerted efforts of multiple public health agencies providing assistance to one another. The promotion and coordination of this assistance through this Agreement is desirable for the effective and efficient provision of mutual aid and assistance.

This Agreement is in no way intended to substitute for the ordinary public health activities of any city or town. The parties intend that designees from the Sending Agency will not operate as the sole personnel of the Receiving Agency.

Section 2: Authority

Pursuant to M.G.L. Chapter 40, Section 4A, mutual aid agreements may be made among municipalities or municipal agencies, with the authorization of the City Council and Mayor in a city, and of Town Meeting in a town.

Section 3: Definitions

Authorized Representative means an official of a signatory entity who is authorized to request, offer, or otherwise provide assistance under this Agreement, and is authorized by law to execute a contract in the name of a governmental unit. A member/designee of the public health agency, if so authorized shall be the authorized representative. If a member/designee of the public health agency is not authorized, the authorized representative shall be the chief executive officer or other officer so authorized; and this officer shall work jointly with a member/designee of the public health agency.

Mutual Aid means aid to another public health agency in the form of personnel, equipment, facilities, services, supplies, or other resources appropriate to public health programs, including but not limited to inspections; vaccination clinics; centers for the distribution of pharmaceuticals; administrative assistance; specimen collection, conveyance, and testing; consulting; environmental assessment; and other programs.

Public Health Agency means the appropriate and legally designated health authority of the city, town, or other legally constituted governmental unit within the Commonwealth having the usual powers and duties of the board of health or health department of a city or town.

Receiving Agency means the public health agency requesting mutual aid from another public health agency.

Region means one of the Emergency Preparedness Regions established by the Massachusetts Department of Public Health.

Sending Agency means the public health agency that provides mutual aid to another public health agency.

Section 4: Other Agreements

This Agreement recognizes and does not supersede present and future mutual aid agreements or intermunicipal agreements among the signatories of this Agreement.

This Agreement does not limit any party jurisdiction's ability to enter into mutual aid agreements in the future with neighboring municipalities and public health agencies, whether inside or outside Regions 4B and 4C.

Section 5: Requests for Assistance

1. The public health agency of each party jurisdiction shall designate an authorized representative in accordance with Section 3. The authorized representative of a Receiving Agency may request the assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction. The authorized representative of a Sending Agency may authorize the sending of mutual aid.

2. The provisions of this Agreement shall apply only to requests for assistance made by and to the authorized representative.

A. Requests may be verbal or in writing.

B. If verbal, the request shall be confirmed in writing at the earliest possible date, but no later than 10 calendar days following the verbal request.

C. Written requests shall provide the following information:

(1) A description of the function for which assistance is needed;

(2) The amount and type of personnel, equipment, materials, services, supplies, and/or other resources needed, and a reasonable estimate of the length of time they will be needed; and

(3) The specific place and time for staging of the Sending Agency's response and a point of contact at that location.

D. The parties recognize that especially during an emergency, the requirements for protection of the public health and safety may require work, services, or

supplies beyond that contained either in an oral or written request (confirmation). Nothing in this Agreement should be construed to limit the ability of either agency or its personnel to respond in any manner necessary for the preservation of the public health and safety. To the extent such services or supplies are extended, the provisions of this Agreement shall apply.

Section 6: Limitations

1. The provision of mutual aid is voluntary. Neither the Sending nor Receiving Agency shall be required to deplete its own resources.
2. The extent of assistance to be furnished under this Agreement shall be determined solely by the Sending Agency, and the assistance furnished may be recalled at the sole discretion of the Sending Agency; provided however, that the Receiving Agency shall determine the scope of services to be delivered by the Sending Agency. Unless otherwise specified by the Receiving Agency in its request for assistance or otherwise, persons from the Sending Agency shall have the same legal enforcement authority in the receiving community as other persons serving in similar capacities in the Receiving Agency.

Section 7: Supervision and Control

1. Personnel sent to assist another community under this Agreement will continue under the command and control of their regular supervisors, but they will come under the operational control of the Receiving Agency. The Receiving Agency may use an incident command system (ICS) or unified command system.
2. Employees shall remain employees of their own agencies at all times. Each agency, sending or receiving, shall be responsible for its own employees' wages, benefits, and similar obligations.

Section 8: Powers and Rights

Each Receiving Agency shall afford to the personnel of any Sending Agency operating within the Receiving Agency's jurisdiction the same powers and rights as are afforded to like personnel of the Receiving Agency.

Section 9: Liability

1. Each party shall be liable for the acts and omissions of its own employees and not for the employees of any other agency in the performance of this Agreement to the extent provided by the Massachusetts Tort Claims Act, M.G.L. c. 258. Each party agrees to indemnify and hold harmless the other parties to this Agreement from liability resulting from the acts and omissions of its own employees, including travel, in the performance of this Agreement to the extent the indemnifier would otherwise be liable under a direct claim pursuant to M.G.L. c. 258.

2. By entering into this Agreement, none of the parties have waived any governmental immunity or limitation of damages, which may be extended to them by operation of law.

3. This Agreement is by and between the municipalities, which have executed it. Each states that it is intended for their mutual benefit alone and is not intended to confer any express or implied benefits on any other person. This Agreement is not intended to confer third party beneficiary status on any person.

Section 10: Workers Compensation

If applicable, each party jurisdiction shall provide for the payment of workers compensation and death benefits to the personnel of its own jurisdiction.

Section 11: Reimbursement

1. Under this Agreement, there is no expectation of automatic or contractual reimbursement for the provision of any mutual aid. However, the parties may develop compensation agreements separately or within the context of this Agreement.

2. In the event of an emergency requiring state or federal assistance, Sending and receiving Agencies may apply for any type of state or federal assistance.

3. In any fiscal year in which a Sending Agency provides service to a Receiving Agency under this Agreement, both agencies shall keep records appropriate to record the services performed, costs incurred, and reimbursements and contributions received. Such records shall be available for, and shall be subject to, audit as is otherwise required by law for municipal financial records. Such records shall also be summarized in a financial statement that will be issued to the Receiving Agency, and to any other participant in the Agreement upon request.

Section 12: Implementation

1. This Agreement shall be binding and in effect after it is signed in accordance with the local charter or bylaws, and upon its approval by the legislative body, of any two municipalities.

2. Additional parties may join this Agreement upon acceptance and execution of it.

Section 13: Term of Agreement

This Agreement is to remain in effect for twenty-five years from the date of execution, at which time it may be extended in accordance with Massachusetts law. Any party may withdraw from this Agreement at any time by sending fourteen (14) days' prior written notice to all other parties. This Agreement shall continue to be in effect among the remaining parties.

Section 14: Severability

Should any portion of this Agreement be judged to be invalid by any court of competent jurisdiction, such judgment shall not impair or invalidate the remainder of this Agreement, and for this purpose the provisions of this Agreement are declared severable.

[City/Town] of _____

By: _____ Date: _____
[Title and Agency]

Approved as to form:

_____ Date: _____
[Name]
City/Town Counsel

Approved by [Appropriate Executive Officer]:

_____ Date: _____

COMMENT: The Board supports, when appropriate, regional response to public safety concerns such as the Town Meeting has previously adopted for mutual aid agreements for the police and fire departments. This agreement would provide assistance to the Town, and the Town to these communities, in the event of a public health emergency. Mutual aid would also be available for inspections, inoculations, health assessments and other programs. The Town's recent involvement in the Hepatitis A exposure would be the kind of situation that a Mutual Aid Agreement could address.

ARTICLE 20

EASEMENT/55 VENNER ROAD

VOTED: That the Board of Selectmen will report to Town Meeting under Article 20.

ARTICLE 21 HOME-RULE LEGISLATION/RETIREMENT ALLOWANCE FOR PART-TIME OFFICIALS

VOTED: That no action be taken under Article 21 of the Warrant.

COMMENT: The proponents of Articles 21 and 22 did not appear at the Board's hearing on same despite being advised of the date thereof. Massachusetts law provides that any local elected official who receives a monetary stipend for their elected service is eligible to receive a pension benefit provided that they meet all the other regular requirements for receiving a pension including serving a minimum of 10 years. By way of example, a selectman who serves 10 years and receives the usual \$3,000 annual stipend would be eligible for a pension at age 55 of \$450 per year.

ARTICLE 23

HOME RULE LEGISLATION/DAVID PANNESI

VOTED: That the Town hereby request and authorize the Board of Selectmen to file a Home-Rule Petition so as to permit Arlington resident, David Pannesi to be eligible for appointment to the Arlington Fire Department notwithstanding the fact that he is over 32 years of age.
(3-2)
Mrs. Dias and Ms. LaCourt voted in the negative.

COMMENT: This is the latest in a series of requests of Arlington residents to be appointed to fire services or police services of the Town by requesting the Legislature to exempt them from the statutory age limit of 32 years of age. This age limitation can be removed if the Town accepts a provision of the General Laws, which requires the institution of physical fitness standards. Selectmen Hurd, Greeley and Mahon support this vote since they believe that individuals should not be discriminated against for these positions regardless of their age. Selectmen Dias and LaCourt believe the Town should either resist these requests or adopt the physical fitness standards. The current and past Chiefs of Police and Fire oppose the acceptance of these standards. They reason that since the Town makes such a financial investment in training Arlington police officers, it is more cost effective to hire and train younger individuals. Physical fitness standards can be collectively bargained. The Town Counsel is concerned about potential claims of discrimination if older individuals are turned down based upon inferior qualifications. There could be an adverse effect on the Town's pension liability if an older individual were appointed and could rely upon other government services for pension entitlement. In any event, the only inquiry under this article is whether to give Mr. Pannesi a chance to apply. It by no means assures him of appointment.

ARTICLE 24

HOME RULE LEGISLATION/MAINTENANCE OF TOWN WATER BODIES

VOTED: That the Board of Selectmen supports the recommended vote of the Finance Committee.

COMMENT: All of the Town water bodies are treasures held in trust for current and future generations to enjoy. The Board supports any efforts to enhance same.

ARTICLE 25

HOME RULE LEGISLATION/EXEMPTION AND DEFERRAL INFORMATION

VOTED: That no action be taken under Article 25 of the Warrant.

COMMENT: The Board is confident that the Board of Assessors would be pleased to include much of the information requested in its Annual Report to the Town. There is no need to clutter up the Town's Bylaws when it can be accomplished administratively. The Assessors are encouraged to provide the information by posting same on the Town website.

ARTICLE 26

HOME RULE LEGISLATION/AMENDMENT TOWN MANAGER ACT

VOTED: That no action be taken under Article 26 of the Warrant.

COMMENT: This is a 10 registered voters article that proposes either a Home-Rule Petition to amend the Town Manager Act or an amendment to the Bylaws to designate members of the Board of Selectmen and other Town officials as members-at-large in the Town Meeting. The Board opposes this proposal since under the Bylaws some of these individuals, i.e., Chair of the Board of Selectmen, Town Manager, etc., already have all the rights and privileges of Town Meeting members, except the ability to vote. None of the officials proposed as at-large members have found any difficulty in getting the opportunity to address Town Meeting. All of these officials can run for Town Meeting and arguably have an advantage due to name recognition. Their appointment as at-large members would dilute the votes of Arlington citizens who stood for election. A no action vote is urged.

ARTICLE 27

HOME RULE LEGISLATION/TEMPORARY LOANS

VOTED: That the Board of Selectmen be and hereby is authorized and requested to file Home-Rule Legislation substantially as follows:

AN ACT RELATIVE TO THE ISSUANCE OF CERTAIN TEMPORARY LOANS IN ANTICIPATION OF BONDS BY THE TOWN OF ARLINGTON

Be it enacted by the Senate and the House of Representatives in General Court assembled and by the authority of the same, as follows:

SECTION 1: Notwithstanding the provisions of Section 17 of Chapter 44 of the General Laws or any other general or special law to the contrary, the Town of Arlington is authorized to issue temporary loans (including temporary loans issued to refund prior temporary loans) in anticipation of the \$14,000,000 bonds authorized by the vote of the Town passed January 16, 2002 under Article 2 of the Warrant for the October 1, 2001 Special Town Meeting for urban renewal purposes for a period of not more than 10 years from the date of issue of the original temporary loan and without any part of such temporary loans from revenue funds during such 10-year period.

SECTION 2: This act shall take effect upon its passage.

COMMENT: The Board urges support of this Home-Rule Petition which would expand from the current statutory limit of five years to ten years during which the Town could continue to issue Bond Anticipation Notes rather than issue more permanent bonds in regard to the Symmes project. It is unlikely that this legislation would be necessary

since revenue generated by the project should be sufficient to pay down the existing Bond Anticipation Notes. This legislation would facilitate the Town's representation to voters who supported the override that the project would not impact the tax rate.

ARTICLE 28

HOME RULE LEGISLATION/TAX EXEMPTIONS

VOTED: That pursuant to the provisions of Clause 41B, Section 5 of Massachusetts General Laws Chapter 59 the Town hereby eliminates interest accrued on tax deferrals for those individuals 65 years of age or older and raises from \$20,000 the maximum income qualification to \$40,000 effective July 1, 2006.

COMMENT: The Legislature recently changed the law related to elder tax deferrals by permitting cities and towns to reduce or eliminate the existing 8 percent interest accrual on deferred taxes if those deferrals were to remain constant. Last tax year there were 16 deferrals of taxes in the amount of \$58,911 meaning that the total lost income for any given year would be in the approximate amounts of \$4,700. The Board believes that this is a relatively inconsequential amount that will aid seniors with limited incomes. It is difficult to determine what effect the increase from \$20,000 to \$40,000 on maximum income qualification would be, but it is doubtful that it would have any substantial impact on the Town's coffers. Any interest reduction on any differed taxes must be revoted each year to be effective.

ARTICLE 29

HOME RULE LEGISLATION/SENIOR CITIZEN PROPERTY TAX DEFERRAL

VOTED: That no action be taken under Article 29 of the Warrant.

COMMENT: It is the Board's understanding that the proponents of this article support the Board's recommendation under Article 28. The proponents should be commended for bringing this matter forward.

ARTICLE 30

ESTABLISH COMMITTEE/EXPLORE OPTIONS FOR ADDITIONAL BURIAL SPACE

VOTED: The Town hereby establishes a Burial Space Review Committee who shall be charged with the responsibility of exploring the feasibility of finding additional burial space. The Committee shall consist of two members of the Board of Selectmen to be appointed by the Board, one shall Chair the Committee but have no vote, other members shall include one member of the Cemetery Commission and Conservation Commission who would be appointed by said Commissions, the Directors of Planning and Public Works, and the Town Manager or their designees. Three citizens of the Town would be appointed by the Board. The Committee will report to the 2007 Annual Town Meeting.

COMMENT: The Committee would study and recommend actions to address the Town's serious need for more burial space.

ARTICLE 31 ESTABLISH A STATE AID TASK FORCE COMMITTEE

VOTED: That the Town does hereby establish a State Aid Task Force Committee. Said committee will: (i) work together with local, regional and state authorities to restore and obtain additional local aid to the Town; (ii) meet at minimum on a quarterly basis to discuss state action(s) and plan strategies (with these meetings to be public in nature and subject to the process of the Open Meeting Law); (iii) hold at least one public hearing annually to solicit public input regarding the committee's work; and (iv) report on an annual basis to Town Meeting beginning with the 2007 Annual Town Meeting. Said committee's activities to include, but are not limited to, holding meetings with state leadership, participating in coalitions with other cities and towns, and providing reports and analyses for state budgeting process. Said committee's membership to be as follows: (i) Two department level members to be appointed by the Town Manager; (ii) Superintendent of Schools; (iii) Chair of the Board of Selectmen; (iv) a Community At-Large Representative; (v) a School Committee Representative; and a Finance Committee Representative.

COMMENT: The Board supports the idea of the proponents to establish such a committee since any efforts to secure more local aid should be encouraged. Increased local aid is a crucial piece of the Town's long-range financial plan. The committee could explore regional and statewide alliances of a grass-roots nature to hopefully influence the Legislature to bring the state's cities and towns back to that level of aid funding prior to the 2002 reductions.

ARTICLE 32 COMPREHENSIVE FIRE STATION BUILDING PLAN

VOTED: That the Town does hereby establish a committee to be called the Fire Station Study Committee whose charge it will be:

- (A) to determine whether the Highland Fire Station should be relocated when it is next rebuilt and, if so, to determine the most appropriate new location;
- (B) to determine what equipment, staffing, and facilities should be provided at the new Highland Fire Station; and
- (C) to undertake such other Fire Station related studies as the Town Manager may assign to said Committee.

Said Committee shall report its status, conclusions and recommendations to the Town Manager with a report to each annual Town Meeting. Such conclusions and recommendations shall be

included in the minutes of the Committee and shall be published on the Town's web site together with the minutes.

Said Committee shall have seven members:
the Town Manager or his designee;
the Director of Planning or his designee;
the Fire Chief or his designee, and two firefighters appointed by the Chief
the Chair of the Finance Committee or his designee;
the Chair of the Capital Planning Committee or his designee,
one Town Meeting member appointed by the Moderator; and
one resident of the Town appointed by the Board of Selectmen.

Said Committee shall dissolve upon the completion of the renovation of the three fire stations of the Town, or sooner upon the recommendation of the Committee and the consent of Town Meeting.

The Town Manager or his designee shall call the first meeting and conduct the election of a Chair, Vice-Chair, and Secretary.

COMMENT: The Board supports the establishment of such a Committee to review the Town's options in regard to its fire stations, especially Highland Station.

ARTICLE 33

SERVICE TO NON-PROFITS

VOTED: That no action be taken under Article 33 of the Warrant.

COMMENT: The Board supports in principle this 10 registered voters article but sees no necessity of a Town Meeting vote since it has already instructed the Town Manager to provide similar information (the level of detail proposed is not practical) to the Board of Selectmen and to make same available publicly. This information would be useful in identifying what Town services are being provided to non-tax-paying entities so that level of service decisions would be more informed.

ARTICLE 34

ENLARGE PLEASANT STREET HISTORIC DISTRICT

VOTED: That the Board supports an affirmative vote to expand the Pleasant Street Historic District to include Oak Knoll.

COMMENT: The Board supports the recommended vote of the Arlington Historic Districts Commission to include Oak Knoll in the Pleasant Street Historic District as set out in the Commission's report to Town Meeting given that most, if not all, of the residents affected support such inclusion.

ARTICLE 35**REVOLVING FUNDS**

VOTED: That the Town hereby reauthorizes the following Revolving Funds and receives the following reports concerning expenditures and receipts thereof:

Private Way Repair - expenditures not to exceed \$200,000

Beginning Balance	\$33,489.00
Receipts	33,947.88
Expenditures	36,817.47
Balance, 7/1/05	\$30,619.41
Receipts 7/1-12/31/05	2,631.50
Expenditures 7/1-12/31/05	637.05

Public Way Repair - expenditures not to exceed \$50,000

Beginning Balance	\$1,098.75
Receipts	460.46
Expenditures	0.00
Balance, 7/1/05	\$1,559.21
Receipts 7/1-12/31/05	0.00
Expenditures 7/1-12/31/05	0.00

Fox Library - expenditures not to exceed \$20,000

Beginning Balance	\$ 798.68
Receipts	4,627.00
Expenditures	2,163.29
Balance, 7/1/05	\$3,262.39
Receipts 7/1-12/31/05	2,583.00
Expenditures 7/1-12/31/05	1,198.85

Robbins House - expenditures not to exceed \$75,000

Beginning Balance	\$ 6,522.15
Receipts	45,650.00
Expenditures	48,287.71
Balance, 7/1/05	\$ 3,884.44
Receipts 7/1-12/31/05	17,099.00
Expenditures 7/1-12/31/05	19,957.47

Conservation Commission - expenditures not to exceed \$50,000

Beginning Balance	\$2,106.07
Receipts	0.00
Expenditures	0.00
Balance, 7/1/05	\$2,106.07
Receipts 7/1-12/31/05	0.00
Expenditures 7/1-12/31/05	620.00

Uncle Sam - expenditures not to exceed \$2,000

Beginning Balance	\$1,147.80
Receipts	0.00
Expenditures	0.00
Balance, 7/1/05	\$1,147.80
Receipts 7/1-12/31/05	0.00
Expenditures 7/1-12/31/05	0.00

Board of Health Fees – expenditures not to exceed \$50,000

Beginning Balance	\$0.00
Receipts	21,673.44
Expenditures	5,733.29
Balance, 7/1/05	15,940.15
Receipts 7/1-12/31/05	4,876.67
Expenditures 7/1-12/31/05	11,995.27

Life Support Services – expenditures not to exceed \$400,000

Beginning Balance	\$194,252.53
Receipts	26,376.85
Expenditures	111,386.00
Balance, 7/1/05	\$109,243.38
Receipts 7/1-12/31/05	38,520.16
Expenditures 7/1-12/31/05	93,493.62

Field User Fees- Established under Article 78 2004 Annual Town Meeting expenditures not to exceed \$25,000

Beginning Balance	\$0.00
Receipts	5,174.00
Expenditures	0.00
Balance, 7/1/05	\$5,174.00
Receipts 7/1-12/31/05	6,930.00
Expenditures 7/1-12/31/05	4,500.00

and provided further that the vote under Article 78 of the 2004 Annual Town Meeting establishing this revolving fund be and hereby is amended by adding the following thereto: “No expenditures may be made from the fund in any fiscal year that the Town does not appropriate at least \$40,000 for the upkeep and maintenance of Town athletic fields.”

And the Town further votes to establish, pursuant to M.G.L. c. 44 § 53E ½, the following additional Revolving Funds:

A. A revolving fund to accept fees for the use and rental of certain meeting rooms in the Robbins Memorial Library, said sums to be expended for the upkeep of same, said expenditures not to exceed \$25,000.

B. To establish, pursuant to said law an additional revolving fund to accept fees for a pick up of so-called white goods, computers and televisions, said sums to defray the cost of said pick up and to establish a program to educate and facilitate the public's understanding of the Town's recycling bylaw, including its enforcement provisions, said expenditures not to exceed \$75,000.

COMMENT: This is the usual article that reauthorizes the Town's Revolving Funds. Under the Field User Fees, the Board agrees with the Field User Fee Study Committee that the Town should continue with a reasonable degree of maintenance of the Town's athletic fields notwithstanding known fiscal restraints. Therefore, the Board at the request of said committee asks that expenditures from the Revolving Fund be contingent upon a stipulated annual appropriation for this purpose.

The Board also proposes the adoption of two additional revolving funds related to the rental of rooms at the library and one for the pick up of white goods, computers and televisions, the latter will be used to defray the cost of such services and institute a process for the implementation of an educational program for the Town's recycling program.

ARTICLE 36

ENDORSEMENT OF CDBG APPLICATION

VOTED: That the Town endorse the application for Federal Fiscal Year 2007 prepared by the Town Manager and the Board of Selectmen under the House and Community Development Act of 1974 as amended.

COMMENT: This is the yearly article by which the Board and the Manager request Town Meeting's endorsement of next year's CDBG application.

ARTICLE 37

AUTHORITY TO FILE FOR GRANTS

VOTED: That the Town hereby authorizes the Town Manager, Board of Selectmen, Superintendent of Schools, and the School Committee to file applications and accept grants.

COMMENT: Although the referenced Town officials already have the authority to file for grants, some grant authorities prefer to see a Town Meeting endorsement of said authority.

ARTICLE 54

LOCAL OPTION TAXES

VOTED: That no action be taken under Article 54 of the Warrant.

COMMENT: No local options on taxes are currently available to the Town. The Board may propose a different vote if any become available.

ARTICLE 55 GEOGRAPHIC INFORMATION SYSTEM

VOTED: That the Board will report to Town Meeting under Article 55 of the Warrant.

(4-1)

Ms. LaCourt voted in the negative.

ARTICLE 65 ALTERNATIVES REGARDING ELEMENTARY SCHOOL PROGRAM

VOTED: That the Town does hereby request that the School Facilities Working Group (hereafter SFWG) to fulfill thoroughly and completely its obligations to develop, maintain and communicate plans to rebuild or renovate the Stratton and Thompson Schools, as previously directed by votes under Articles 74 and 61 of the 2003 and 2004 Annual Town Meetings, respectively. Specifically, that:

- The SFWG is charged with the duty of diligently exploring the options to complete the rebuilding projects,
- The SFWG shall report to Town Meeting on a preferred option and at least one alternative option for completing the projects, including plans of action for each, and
- The SFWG plans shall include timetables and sources of funding, and shall be developed with input from the Principals of the Stratton and Thompson Schools, who shall be added to the membership of the SFWG,
- Make and clearly state all assumptions necessary to formulate these plans, identifying to the best of its ability the risks associated with each assumption,
- Update these plans from time to time, as new information becomes available or developments affecting the plans may occur, but in any event not less than once per year, and
- Report on these plans, including progress against them and updates to them, in writing, annually to Town Meeting beginning in 2007 and continuing until the last project has begun construction, and also to the Stratton and Thompson communities in public meetings held at each school at least once during each school year, beginning with the present 2005-06 school year and continuing at each school until its respective project has begun construction.

COMMENT: The Board remains committed to the completion of the school rebuilding program and supports this 10 registered voters article that would reenergize the School Facilities Working Group and other Town officials in working towards the rebuilding and/or renovation of the Stratton and Thompson Schools.

ARTICLE 66

SCENIC BYWAY

VOTED: That the Town request that the Board of Selectmen and other appropriate Town officials collaborate with the Towns of Lexington, Lincoln and Concord to designate a portion of Massachusetts Avenue, The Battle Road Corridor, as a scenic byway.

COMMENT: This article asks that the State recognize that Massachusetts Avenue in Arlington and as it continues through Lexington, Lincoln, and Concord be designated a “Scenic Byway”. The State designation does not place any constraints or obligations on the towns, the roadway, or the abutters, but does create the opportunity to raise consciousness about the resources of the byway and the opportunity to apply for funds that are occasionally made available for such purpose.

ARTICLE 67

POSITIVE PARENTING RESOLUTION

VOTED: That no action be taken under Article 67 of the Warrant.

COMMENT: Although the Board supports the rationale of this 10 registered voters article, it does not believe that this is a proper matter for Town Meeting’s consideration.